



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/066,793

02/06/2002

David J. Del Beccaro

14688-518

4501

6449

7590

09/27/2006

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

EXAMINER

VU, NGOC K

ART UNIT

PAPER NUMBER

2623

DATE MAILED: 09/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/066,793

Applicant(s)

DEL BECCARO ET AL.

Examiner

Ngoc K. Vu

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>7/14/03, 7/7/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Objections

1. Claims 1 and 14 are objected to because of the following informalities: the terms "the audio system" seem to refer to the audio subsystem which is previously recited. Therefore, the terms "the audio system" in claims 1 and 14 should be changed to --the audio subsystem--, or an appropriate correction is required.
2. Claims 8 and 22 are objected to because of the following informalities: the terms "one or more visual media asset identifier sets in a queue" and "one or more visual media asset identifier set in a queue" seem to refer to the one or more queues of visual media asset identifier sets which are previously recited in claims 7 and 21, respectively. Therefore, the terms "one or more visual media asset identifier set(s) in a queue" in claims 8 and 22 should be changed to --the one or more queues of visual media asset identifier sets--, or an appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1 and 14, the terms "about the same time" in line 10 are the relative terms which render the claims indefinite. The terms "about the same time" are not explicitly defined by the claims, the specification does not provide a standard for ascertaining the

Art Unit: 2623

requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Appropriate correction is required.

Claim 5 is indefinite because there is no antecedent basis for the limitations "the storage unit the visual media asset" and "the visual media asset" in lines 3-4.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claim 23 is rejected under 35 U.S.C. 102(e) as being anticipated by Schrader et al. (US 20030023975 A1).

With respect to claim 23, Schrader teaches a system for providing a visual complement to an audio service (i.e., music service) (see figures 4; 8-12), comprising: a first transmission system (broadcast server 114) that transmits data to a second transmission system (cable/satellite transmission system), wherein the second transmissions system transmits the data to one or more audio/video receivers (client systems 100) (see figure 4); an audio subsystem (one of providers 414 & 402) that selects sound recordings according to a playlist and transmits, according to the playlist, the selected sound recordings to the first transmission system (broadcast server 114) for relay to the second transmission system (cable/satellite transmission system) (see 0041, 0042, 0052, 0055, 0007, 0081 and 0101); a storage device (within 402) that stores a plurality of video images (0042, 0109); a data structure (index log or

Art Unit: 2623

index file) that associated one or more of the plurality of video images with the selected sound recording, wherein at least one of the one or more video images that are associated with the selected sound recordings is associated with a time duration (see 0098, 0109, 0046-0049).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reynolds et al. (US 7,020,888 B2) in view of Ishiai (US 20020021708 A1).

Regarding claim 1, Reynolds teaches a system for providing a visual complement to an audio service (see figures 1-2), comprising: a first transmission system (108 & 110 – see figure 1) that transmits data to a second transmission system (112 – figure 1), wherein the second transmissions system transmits the data to one or more audio/video receivers (114 – figure 1); an audio subsystem (204, 212 & 220 – figure 2) that selects sound recordings according to a playlist and transmits, according to the playlist, the selected sound recordings to the first transmission system (108 & 110) for relay to the second transmission system (112) (see col. 4, lines 2-22; col. 20, lines 20-32); and a video subsystem (202, 210 & 218 – figure 2).

Reynolds does not explicitly teach the audio system transmits a trigger message comprising a sound recording identifier that identifies the sound recording to the video subsystem and the video subsystem, after receiving the trigger message, generates a data packet comprising a video image specification based on pre-defined configuration data. However, Ishiai teaches an audio/video data transfer system for enabling audio/video data to be

Art Unit: 2623

easily transferred between audio/video servers. It is noted that transferring a particular audio/video data between the audio/video servers must include generating data packets comprising information such as clip ID as unique identity to each audio/video data, title/description/duration of the audio/video data, etc. (See 0014-0016, 0019, 0051, 0057, 0073 and figure 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Reynolds by transmitting data included identifier information of audio/video data from one audio/video server to another audio/video server as taught by Ishiai in order to provide an effective way for transferring the selected audio/video data between the audio/video servers.

Regarding claims 4-8, the combination of Reynolds and Ishiai further teaches that the provided audio/video data associated with clip ID, title, description, and duration from one server to another, and the retrieved or processed audio/video data is transmitted to receiver from the delivery system, wherein each stream record includes a unique ID, media type, each depend streams having a unique stream ID which is required to access/use the stream, etc (see Reynolds: col. 7, lines 14-54 and figures 1-2; Ishiai: 0073).

Allowable Subject Matter

9. Claims 2, 3 and 9-13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, objections set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

10. Claims 14-22 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, and objection set forth in this Office action.

Conclusion

11. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as

Art Unit: 2623

timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on _____
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Registration Number: _____

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. () _____ - _____ on _____
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Registration Number: _____

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 571-272-7306. The examiner can normally be reached on Monday-Friday.

Art Unit: 2623

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Ngoc K. Vu
Primary Examiner
Art Unit 2623

September 25, 2006